

REMARKS

Claims 1-11 are pending in the present application and have been rejected to by the Examiner. Claims 1, 6 and 7 have been amended herein. New claims 12-16 have been added herein. Applicants respectfully traverse each ground of rejection and request reconsideration and further examination of the application under 37 CFR § 1.111. Applicants respond to each ground of rejection and objection as follows.

A. The specification was objected to because of noted informaties.

Applicants would like to thank the Examiner for her thorough review of the present specification. It is respectfully submitted that the specification has been amended herein in order to correct the typographical errors noted by the Examiner. It is therefore believed that the specification, as amended, is unobjectionable.

B. Claims 1 and 6 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is respectfully submitted that claims 1 and 6 have been amended herein in order to correct the indefinite phrases noted by the Examiner. It is therefore believed that claims 1 and 6, as amended, are allowable under 35 U.S.C. 112, second paragraph.

C. Claims 1-5 and 7-11 were rejected under 35 U.S.C. 102(e) as being anticipated by Neel et al. Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over Neel et al. in view of Feldman et al.

Claim 1, as amended, specifically requires "wherein the second test signal is a signal having an AC component." It is respectfully submitted that the Neel et al.

reference does not disclose the above-recited element of Applicants' claim 1. All measurements disclosed by Neel et al. are performed using DC voltage signals. Applicants were the first to disclose the benefits obtained by using a signal having an AC component in conjunction with a dose sufficiency measurement. It is therefore respectfully submitted that claim 1 is allowable over the references of record.

Claims 2-6 depend from claim 1 and therefore include all of the limitations of claim 1. It is therefore respectfully submitted that claims 2-6 are allowable over the references of record for at least the same reasons set forth above with respect to claim 1.

Claim 7, as amended, specifically requires "a third pair of electrodes in operative communication with the chamber" and "third measuring an analyte concentration of the biological fluid using the third electrodes." It is respectfully submitted that the Neel et al. reference does not disclose the above-recited element of Applicants' claim 7. Neel et al. discloses only two pairs of electrodes. In the rejection of claim 6, the Office Action alleges that this deficiency in Neel et al. is cured by Feldman et al., which discloses three working electrodes. However, Feldman et al. does not teach or suggest the provision of any type of electrodes for measuring fill time, let alone the provision of a separate set of electrodes for analyte measurement and fill time measurement. Neel et al. actually teaches directly away from the claimed invention by specifying that the measurement electrodes should be used as part of the fill time measurement. Therefore, the combination of Neel et al. and Feldman et al. cannot teach or suggest the provision of a separate set of electrodes for analyte measurement and fill time measurement. It is therefore respectfully submitted that Applicants' claim 7 is allowable over the references of record.

Claims 8-11 depend from claim 7 and therefore include all of the limitations of claim 7. It is therefore respectfully submitted that claims 8-11 are allowable over the references of record for at least the same reasons set forth above with respect to claim 7.

D. New Claims 12-16 are also patentable in view of the cited references.

New claim 12 specifically requires "a third pair of electrodes in operative communication with the chamber" and "applying a measurement test signal to one of the third pair of electrodes after the measuring the second response; measuring a third response to the third test signal at the other of the third pair of electrodes; and determining a concentration of an analyte in the biological fluid using the third response." For the same reasons set forth above with respect to claim 7, it is respectfully submitted that claim 12 is allowable over the references of record.

Claims 13-16 depend from claim 12 and therefore include all of the limitations of claim 12. It is therefore respectfully submitted that claims 13-16 are allowable over the references of record for at least the same reasons set forth above with respect to claim 12.

CONCLUSION

For the foregoing reasons, Applicants respectfully submits that the present application is in condition for allowance, and respectfully requests such action. Should it facilitate allowance of the application, the Examiner is invited to telephone the undersigned attorney.

The Commissioner is authorized to charge \$1,020.00 for a three-month extension of time to the credit card detailed on the attached form PTO-2038. No additional fees are believed to be necessary, however, should any fees be deemed required, the Commissioner is authorized to charge such fees to Deposit Account No. 23-3030, but is not to include payment of issue fees.

Respectfully submitted,

By: _____



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